



February 23, 2007

SENATE BILL No. 207

DIGEST OF SB 207 (Updated February 21, 2007 3:03 pm - DI 104)

Citations Affected: IC 16-18; IC 16-40; IC 34-30; noncode.

Synopsis: Medical adverse event reporting. Requires the state department of health, subject to appropriation by the general assembly, to enter into an agreement with an agency to collect, analyze, interpret, and disseminate findings on a statewide basis regarding patient safety. Makes it voluntary for certain persons to submit information to the agency and makes the reports and certain other information confidential. Requires the state department of health to: (1) study and develop quality indicators for infections; (2) publish the indicators; and (3) report to the health finance commission before September 1, 2007 and September 1, 2008, concerning the implementation of the program.

Effective: July 1, 2007.

Dillon, Hershman

January 8, 2007, read first time and referred to Committee on Health and Provider Services.

February 22, 2007, amended, reported favorably — Do Pass.

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SB 207—LS 6515/DI 77+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 207

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-10, AS AMENDED BY P.L.101-2006,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 10. **(a) "Agency", for purposes of IC 16-40-5,**
4 **has the meaning set forth in IC 16-40-5-1.**

5 **(b) "Agency", for purposes of IC 16-41-37, has the meaning set**
6 **forth in IC 16-41-37-1.**

7 SECTION 2. IC 16-18-2-161 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 161. (a) "Health care
9 facility" includes:

10 (1) hospitals licensed under IC 16-21-2, private mental health
11 institutions licensed under IC 12-25, and tuberculosis hospitals
12 established under IC 16-11-1 (before its repeal);

13 (2) health facilities licensed under IC 16-28; and

14 (3) rehabilitation facilities and kidney disease treatment centers.

15 (b) "Health care facility", for purposes of IC 16-28-13, has the
16 meaning set forth in IC 16-28-13-0.5.

17 **(c) "Health care facility", for purposes of IC 16-40-5, has the**

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1 meaning set forth in IC 16-40-5-2.

2 SECTION 3. IC 16-40-5 IS ADDED TO THE INDIANA CODE AS
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2007]:

5 **Chapter 5. Patient Safety Programs**

6 **Sec. 1. As used in this chapter, "agency" means:**

7 (1) an independent entity that has been certified as a patient
8 safety organization by the federal government; or

9 (2) an academic institution if:

10 (A) the academic institution is most qualified; or

11 (B) there is not a certified independent entity.

12 **Sec. 2. As used in this chapter, "health care facility" includes the**
13 **following:**

14 (1) An abortion clinic licensed under IC 16-21-2.

15 (2) An ambulatory outpatient surgical center licensed under
16 IC 16-21-2.

17 (3) A birthing center licensed under IC 16-21-2.

18 (4) A hospital licensed under IC 16-21-2.

19 **Sec. 3. (a) Subject to appropriation by the general assembly, the**
20 **state department shall enter into an agreement with an agency that**
21 **collects, analyzes, interprets, and disseminates findings on a**
22 **statewide basis regarding patient safety that are based on**
23 **confidential and privileged information voluntarily submitted to**
24 **the agency by:**

25 (1) a health care facility;

26 (2) a health care professional; or

27 (3) an individual.

28 (b) The state department shall ensure that the agency's board
29 has sufficient procedures in place to allow the agency to fairly,
30 objectively, and accurately perform the duties set forth in the
31 agency's contract under this chapter with the state department.

32 (c) Information submitted by the agency to the state department
33 may not contain information that identifies the health care
34 provider or the patient.

35 (d) The agency shall analyze data, develop policies, and
36 disseminate and assist in the implementation of procedures that
37 enhance patient safety.

38 **Sec. 4. A health care facility, a health care professional, or an**
39 **individual may file with the agency referred to in section 3 of this**
40 **chapter an incident report that alleges that a health care facility or**
41 **a health care professional, by an action taken or a failure to act,**
42 **caused or could have caused harm to a patient, including harm that**

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1 resulted from or could have resulted from:

- 2 (1) an adverse drug event; or
 3 (2) an unexpected infection, including an infection that was
 4 probably acquired in the health care facility.

5 Sec. 5. (a) Except for information in an incident report that
 6 discloses the commission of a criminal offense, the following
 7 information contained in an incident report filed under section 4
 8 of this chapter is confidential and may not be disclosed:

- 9 (1) The name of the person who made the incident report.
 10 (2) The name of the patient.
 11 (3) The name of any individual involved in the reported
 12 incident.
 13 (4) The name of the health care facility involved in the
 14 reported incident.
 15 (5) The date of the reported incident.
 16 (6) Any other contents of the incident report submitted under
 17 section 4 of this chapter.

18 (b) Except in the case of an incident report disclosing the
 19 commission of a criminal offense, the following are also
 20 confidential and may not be disclosed:

- 21 (1) Any information obtained or produced by the agency
 22 administering this chapter in analyzing or processing an
 23 incident report filed under section 4 of this chapter.
 24 (2) Any other information that would identify a person or
 25 health care facility described in subsection (a)(1) through
 26 (a)(4).

27 (c) Except in the case of a report that discloses the commission
 28 of a criminal offense, summary patient safety reports prepared
 29 under this chapter by the agency administering this chapter may
 30 not be used in disciplinary actions or civil proceedings.

31 Sec. 6. The state department may adopt rules under IC 4-22-2
 32 to administer this chapter.

33 SECTION 4. IC 34-30-15-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) **Except as**
 35 **provided in subsection (e)**, all proceedings of a peer review committee
 36 are confidential.

37 (b) All communications to a peer review committee shall be
 38 privileged communications.

39 (c) **Except as provided in subsection (e)**, neither the personnel of
 40 a peer review committee nor any participant in a committee proceeding
 41 shall reveal any content of:

- 42 (1) communications to;

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- 1 (2) the records of; or
 2 (3) the determination of;
 3 a peer review committee outside of the peer review committee.
 4 (d) However, the governing board of:
 5 (1) a hospital;
 6 (2) a professional health care organization;
 7 (3) a preferred provider organization (including a preferred
 8 provider arrangement or reimbursement agreement under
 9 IC 27-8-11); or
 10 (4) a health maintenance organization (as defined in
 11 IC 27-13-1-19) or a limited service health maintenance
 12 organization (as defined in IC 27-13-34-4);

13 may disclose the final action taken with regard to a professional health
 14 care provider without violating the provisions of this section.

15 **(e) A peer review committee of a health care facility (as defined**
 16 **in IC 16-40-5-2) may submit or disclose to the agency**
 17 **administering IC 16-40-5 the following for purposes of IC 16-40-5:**

- 18 (1) Communications to the peer review committee.
 19 (2) Peer review committee proceedings.
 20 (3) Peer review committee records.
 21 (4) Determinations by the peer review committee.

22 **Except as provided in subsection (f), information and materials**
 23 **disclosed to the agency under this subsection are confidential and**
 24 **privileged, and the agency may not use or provide the information**
 25 **or material to anyone for use as evidence in an administrative or**
 26 **a civil proceeding.**

27 **(f) The agency may disclose information provided to the agency**
 28 **voluntarily under this chapter for use in a criminal proceeding if**
 29 **a court first makes an in camera determination that the**
 30 **information:**

- 31 (1) is relevant to the criminal proceeding;
 32 (2) is material to the proceeding; and
 33 (3) is not reasonably available from another source.

34 **(g) The governing board of a hospital may report, as part of the**
 35 **hospital's quality assessment and improvement program, a**
 36 **determination of a peer review committee of the hospital regarding**
 37 **an adverse event concerning patient care to the state department**
 38 **of health or another state agency without violating this section.**

39 **SECTION 5. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding**
 40 **IC 16-40-4, as part of the health care quality indicator data**
 41 **program, the state department of health shall, before December 31,**
 42 **2008:**

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- 1 (1) study and develop quality indicators for infections; and
2 (2) publish the indicators for use by health care facilities.
3 (b) The state department of health shall report to the health
4 finance commission established under IC 2-5-23-3 not later than
5 September 1 of each year concerning the implementation of
6 IC 16-40-5, as added by this act.
7 (c) This SECTION expires July 1, 2009.

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SENATE MOTION

Madam President: I move that Senator Hershman be added as second author of Senate Bill 207.

DILLON

 COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 207, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 4.

Page 1, line 8, delete "IC 16-40-5-2." and insert "**IC 16-40-5-1.**".

Page 1, delete lines 11 through 14.

Page 2, line 9, delete "IC 16-40-5-4." and insert "**IC 16-40-5-2.**".

Page 2, delete lines 14 through 17.

Page 2, line 18, delete "2." and insert "**1.**".

Page 2, delete lines 19 through 27, begin a new line block indented and insert:

(1) an independent entity that has been certified as a patient safety organization by the federal government; or

(2) an academic institution if:

(A) the academic institution is most qualified; or

(B) there is not a certified independent entity."

Page 2, line 28, delete "4." and insert "**2.**".

Page 2, line 28, delete "means" and insert "**includes**".

Page 2, delete lines 34 through 42.

Page 3, line 1, delete "(10)" and insert "**(4)**".

Page 3, delete lines 2 through 5.

Page 3, line 6, delete "5. The" and insert "**3. (a) Subject to appropriation by the general assembly, the**".

Page 3, line 7, delete "for the administration of this chapter." and insert "**that collects, analyzes, interprets, and disseminates findings on a statewide basis regarding patient safety that are based on confidential and privileged information voluntarily submitted to the agency by:**

(1) a health care facility;

(2) a health care professional; or

(3) an individual.

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(b) The state department shall ensure that the agency's board has sufficient procedures in place to allow the agency to fairly, objectively, and accurately perform the duties set forth in the agency's contract under this chapter with the state department.

(c) Information submitted by the agency to the state department may not contain information that identifies the health care provider or the patient.

(d) The agency shall analyze data, develop policies, and disseminate and assist in the implementation of procedures that enhance patient safety."

Page 3, delete lines 8 through 12.

Page 3, line 13, delete "(b)" and insert "Sec. 4."

Page 3, line 14, delete "5" and insert "3".

Page 3, line 22, delete "Sec. 7." and insert "Sec. 5."

Page 3, line 24, delete "6" and insert "4".

Page 3, line 34, delete "6" and insert "4".

Page 3, line 40, delete "6" and insert "4".

Page 4, delete lines 6 through 37.

Page 4, line 38, delete "12." and insert "6."

Page 5, line 22, delete "A health care facility (as defined in IC 16-40-5-4) may use a" and insert "A peer review committee of a health care facility (as defined in IC 16-40-5-2) may submit or disclose to the agency administering IC 16-40-5 the following for purposes of IC 16-40-5:

- (1) Communications to the peer review committee.
- (2) Peer review committee proceedings.
- (3) Peer review committee records.
- (4) Determinations by the peer review committee.

Except as provided in subsection (f), information and materials disclosed to the agency under this subsection are confidential and privileged, and the agency may not use or provide the information or material to anyone for use as evidence in an administrative or a civil proceeding.

(f) The agency may disclose information provided to the agency voluntarily under this chapter for use in a criminal proceeding if a court first makes an in camera determination that the information:

- (1) is relevant to the criminal proceeding;
- (2) is material to the proceeding; and
- (3) is not reasonably available from another source.

(g) The governing board of a hospital may report, as part of the hospital's quality assessment and improvement program, a

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determination of a peer review committee of the hospital regarding an adverse event concerning patient care to the state department of health or another state agency without violating this section."

Page 5, delete lines 23 through 38.

Page 5, line 42, delete "2007:" and insert "**2008:**".

Page 6, line 2, delete "where the state department of health determines" and insert "**publish the indicators for use by health care facilities.**".

Page 6, delete line 3.

Page 6, line 4, after "(b)" insert "**The state department of health shall report to the health finance commission established under IC 2-5-23-3 not later than September 1 of each year concerning the implementation of IC 16-40-5, as added by this act.**

(c)".

Page 6, line 4, delete "2008." and insert "**2009.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 207 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

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